THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.10822 OF 1998

ORDER:

The petitioners claim to be the owners of the land situated in Sarpanaidupeta village, Kadapa district. The said land was acquired for the purpose of Somasila Project and different awards were passed during the years 1979 and 1980 fixing the compensation for the lands so acquired. The petitioners state that they made applications before the 1st respondents seeking reference to the civil Court under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') within the time prescribed. Alleging that the 1st respondent failed to make the reference, the petitioners earlier filed W.P.Nos.312 of 1987 and etc. The said writ petitions were dismissed by order dated 18.1.1991 on the ground that there was no proof to substantiate the plea of the petitioners that they received compensation under protest.

This writ petition is field in November 1997 alleging that the stand taken by the respondents in the earlier writ petitions that the petitioners did not raise any protest while receiving the compensation was incorrect and that the 1st respondent had deliberately suppressed the Form-C records, which contained the protest raised by the petitioners. Accordingly, the writ petitioners sought a *writ of mandamus* directing the respondents to produce Form-C record relating to the lands of the petitioners and for a consequential direction to make reference to the Civil Court under Section 18 of the Act.

I have heard the learned counsel for both the parties and perused the material on record.

The specific case of the petitioners is that they filed applications seeking reference under Section 18 of the Act before the 1st respondent within the stipulated time. It is also their case that they received the compensation fixed under the awards under protest,

which was placed in Form-C record on the file of the Special Deputy Collector-cum-Land Acquisition Officer. It is alleged that the 1st respondent herein who was also a party to the earlier batch of writ petitions had deliberately suppressed the said record so as to defeat the legitimate rights of the petitioners to seek reference under Section 18 of the Act for enhanced compensation.

A copy of the order in W.P.No.312 of 1987 and etc.,

dated 18.1.1991 placed before this Court shows that the said writ petitions were filed by the petitioners herein with a similar prayer seeking a direction to the Special Deputy Collector-cum-Land Acquisition Officer to refer the cases of the petitioners under Section 18 of the Act. The said writ petitions were dismissed with costs by a Division Bench of this Court after calling for relevant record and after hearing both the parties. The Division Bench while dismissing the writ petitions also directed the authorities to conduct enquiry with regard to certain interpolations found in the record. It would be appropriate to extract the relevant portion from the Judgment of the Division Bench.

> "It is noticed that the petitioners approached this Court seven years after the award was passed. The Land Acquisition Officer who disbursed the amount of compensation did not record any protest by the awardees. It is specifically mentioned in Section 31(2) of the Land Acquisition Act that no person who has received the amount otherwise than under protest shall be entitled to make any application under Section 18 of the Land Acquisition Act seeking reference. No such applications are filed till today before the authorities concerned. There is no averment in the writ petition even that the amount of compensation was received under protest. It appears that there is a general unauthorised endorsement on top of the list of disbursements without anybody's signature. That endorsement is certainly not by the Special Deputy Collector who disbursed the amounts. We have encircled the endorsement in 'red'. It is unauthorized and it appears to have been introduced by way of interpolation. We direct the authorities to conduct an enquiry as to how the interpolation came on record. Since there is no averment on behalf of the petitioners that they received the amount of compensation under protest and also because it is stated on behalf of the respondent that the amount was not received under protest, we feel the applications are barred by the express provision of Section 31(2) of the Land Acquisition

Act. Admittedly, till today no application was filed before the authorities concerned and this court cannot issue the mandamus in violation of Section 31(2) of the Land Acquisition Act.

We would accordingly dismiss the writ petitions with costs on this short ground. Advocate's Fee Rs.75/- in each."

As rightly contended by the learned Government Pleader, the contentions raised in this writ petition by the writ petitioners were already rejected by a Division Bench of this Court and the said common order admittedly has become final. In the circumstances, it is not open to the petitioners to re-agitate the issue. The relief prayed in this writ petition is nothing but seeking review of the order of the Division Bench in the earlier batch of writ petitions. Hence, on that ground alone the writ petition is liable to be dismissed as not maintainable.

Accordingly, the writ petition is dismissed. No costs.

G. ROHINI, J.

Dt. 4-6-2007
KGR

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.10822 OF 1998

4th June, 2007.

Between:

Mallu Lakshmi Narasareddy and others. .. Petitioners.

And

The Special Deputy Collector,
Cum-Land Acquisition Officer,
Somasila Project-Unit_I,
Badvel, Cuddapah District and another. .. Respondents.